

VIRGINIA:

BEFORE THE BOARD OF OPTOMETRY

IN RE: GILBERT J. NELSON, O.D.
License No. 0601-000324

CONSENT ORDER

Pursuant to §§ 9-6.14:11 and 54.1-2400(8) of the Code of Virginia (1950), as amended, an Informal Conference Committee ("Committee") of the Virginia Board of Optometry ("Board"), composed of Charles W. Harrill, O.D. and Lowell H. Gilbert, O.D., met with Gilbert J. Nelson, O.D. on January 11, 1995, in Henrico County, Virginia. Gilbert J. Nelson, O.D. appeared in person and was represented by Andrew P. Zimmer, Esquire. The purpose of the informal conference was to receive and act upon evidence concerning the allegations in the Notice of Informal Conference dated December 9, 1994.

FINDINGS OF FACT

After consideration of the evidence and statements concerning the allegations, the Committee makes the following Findings of Fact:

1. Gilbert J. Nelson, O.D. holds license number 0601-000324 issued by the Virginia Board of Optometry.
2. During the course of Dr. Nelson's practice of optometry at Fair City Mall, Fairfax, Virginia, which ceased on or about June 1, 1994, Dr. Nelson subleased space from and adjacent to Singer/Spec Discount Vision Center ("Singer/Spec"). Further, Dr. Nelson paid twenty percent (20%) of all fees collected for contact lens examinations and comprehensive eye examinations conducted by him to Singer/Spec.

CONCLUSIONS OF LAW

The Board concludes that Finding of Fact No. 2 constitutes a violation of §§ 54.1-3205(A) and 54.1-3215(14) and (16) of the Code of Virginia (1950), as amended.

CONSENT

Gilbert J. Nelson, O.D. by affixing his signature hereon, agrees to the following:

1. He has been advised specifically to seek the advice of counsel prior to signing this document;
2. He is fully aware that without his consent, no legal action can be taken against him except pursuant to the Virginia Administrative Process Act, § 9-6.14:1 et seq of the Code of Virginia;
3. He has the following rights, among others:
 - a. the right to a formal fact-finding hearing before the Board;
 - b. the right to representation by counsel; and
 - c. the right to cross-examine witnesses against him.
4. He waives all rights to a formal hearing;
5. He admits the truth of the above Findings of Fact; and
6. He consents to the following Order affecting his license to practice optometry in the Commonwealth of Virginia.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact, Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that Gilbert J. Nelson, O.D. be, and hereby is, REPRIMANDED by the Board of Optometry.

It is further ORDERED that the license of Dr. Nelson shall be placed on PROBATION, subject to the following terms and conditions:

1. The period of probation shall begin on the date that this Consent Order is entered and shall continue for one (1) year. At the end of the probationary period, the terms and conditions imposed by this Consent Order upon the license of Dr. Nelson to practice optometry shall be removed without any further administrative proceedings by the Board unless there is any pending investigation or unresolved allegation of a violation of law or regulation affecting the practice of optometry or of a violation of a term or condition of this probation. In the event there is any pending investigation or unresolved allegation, the period of probation shall be continued indefinitely or until such time as the Board makes a determination in any such matter in accordance with the Administrative Process Act, § 9-6.14:1 et seq of the Code of Virginia.

2. Dr. Nelson shall provide the Board with a copy of his current employment agreement and a copy of the lease agreement for his place of employment within thirty (30) days of the date of entry of this Consent Order.

3. Dr. Nelson shall notify the Board in writing of any change in the location of his practice of optometry within five (5) days of said change.

4. Dr. Nelson shall maintain a course of conduct commensurate with the requirements of Chapter 32, Title 54.1 of the Code of Virginia. Any violation of these terms of probation or of any law or regulation affecting the practice of optometry in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of Dr. Nelson's license and an administrative proceeding shall be convened to determine whether said license shall be suspended or revoked.

G. Nelson

Pursuant to § 9-6.14:14 of the Code of Virginia, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

FOR THE BOARD:

Robert Lincoln, O.D.

President

ENTERED: 2/8/95

SEEN AND AGREED TO:

Gilbert J. Nelson

Gilbert J. Nelson, O.D.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Richmond

Subscribed and sworn to before me, a Notary Public in and for the city/county of Richmond, this 19 day of January, 1995, by Gilbert J. Nelson, O.D.

Arthur I. Mann

Notary Public

My Commission Expires: 5/31/98

RECEIVED: Feb 9 1995

BY: John W. Hasty

John W. Hasty, Director
Department of Health Professions

G. Nelson

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Certificate of Service

I hereby certify that a true copy of the foregoing Consent Order was mailed to Gilbert J. Nelson, O.D. at 5428 Backlick Road, Springfield, Virginia, 22151 on the 17th day of February, 1995.

Elizabeth Carter, Ph.D. /css
Elizabeth A. Carter, Ph.D. Executive Director
Board of Optometry